

1 **REMARKS**

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3 At the time of the First Office Action dated August 15, 2007, claims 1-18 were pending
4 and rejected in this application.
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6 **CLAIMS 1-18 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY SUZUKI**
7 **ET AL., U.S. PATENT PUBLICATION NO. 2002/0032616 (HEREINAFTER SUZUKI)**

8 On pages 2-9 of the First Office Action, the Examiner asserted that Suzuki discloses the
9 invention corresponding to that claimed. This rejection is respectfully traversed.
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11 The factual determination of anticipation under 35 U.S.C. § 102 requires the identical
12 disclosure, either explicitly or inherently, of each element of a claimed invention in a single
13 reference.¹ Moreover, the anticipating prior art reference must describe the recited invention
14 with sufficient clarity and detail to establish that the claimed limitations existed in the prior art
15 and that such existence would be recognized by one having ordinary skill in the art.² As part of
16 this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the
17 meaning of the elements in light of the specification and prosecution history, and (c) identify
18 corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not
19 been met.
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¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

Claim 1

At the outset, Applicant notes that the Examiner's written analysis with regard to claim 1 has been little assistance to Applicant in understanding the basis for the Examiner's rejection. For example, the Examiner refers to "[server]" as identically disclosing the claimed content proxy. However, Figs. 3 and 4 of Suzuki describe four different servers. Applicant is not in a position to guess as to what "server" in Suzuki the Examiner is referring to identically disclose the claimed content proxy.

Applicant also notes that the Examiner's analysis relies on generalizations and ignores the specific language of the claims. Applicant also notes that the Examiner's cited passages of Figures 3-4 and 6-7 as well as paragraphs [0020]-[0023] and [0030] describe what Applicant has already admitted is prior art (i.e., see Fig. 1 of Applicant's specification).

As claimed, the MSWP portal is connected to a plurality of MSWPs and a content proxy. Figs. 3-4 and 6-7 of Suzuki do not teach a plurality of MSWPs. Instead, these figures only refer to a single wallet server. Moreover, these figures within Suzuki are also silent as to a MSWP portal between the plurality of MSWPs and a content proxy. Instead, these figures show a relay server (presumably allegedly corresponding to the claimed content proxy).

The only discussion, within the Examiner's cited passages, of multiple wallet servers is found in paragraph [0030], which is reproduced below:

Also, a preferable mode is one wherein the payment system is provided with a plurality of the wallet servers, and the information out of which the predetermined item is to be selected by the contents converting section is information used by the user to select the wallet server for the payment out of the plurality of the wallet servers.

Completely absent from this passage, however, is a detailed discussion of how the multiple wallet servers are integrated into the system. On the contrary, claim 1 recites that "a composite profile generator configured to combine a plurality of MSWP profiles into a single, composite profile for routing payment messages in said proxy to the MSWP profile." Absent from the Examiner's cited passages is either a profile for each of the MSWPs or a single, composite profile. Thus, the Examiner has failed to establish that Suzuki identically discloses the claimed invention, as recited in claim 1, within the meaning of 35 U.S.C. § 102.

Claim 4

Independent claim 4 is also directed to the concept of a MSWP portal that is connected to a plurality of MSWPs and a content proxy. However, as noted above with regard to claim 1, the Examiner has failed to specifically identify a teaching in Suzuki that identically discloses the claimed MSWP portal. Thus, the Examiner has failed to establish that Suzuki identically discloses the claimed invention, as recited in claim 4, within the meaning of 35 U.S.C. § 102.

Claims 3 and 6

Each of claims 3 and 6 are directed to the concept of a filter plug-in configured to route payment messages to the portal when the payment messages match rules specified within the composite profile. With regard to these limitations, the Examiner cited paragraphs [0028]-[0029] and [0033]-[0038] of Suzuki and stated "[a]fter authentication takes place within the network, payment receipt messages are routed back and forth through the system." Completely absent from these passages, however, is a teaching as to a filter plug-in or "rules specified within the composite profile." Thus, the Examiner has failed to establish that Suzuki identically

discloses the claimed invention, as recited in claims 3 and 6, within the meaning of 35 U.S.C. § 102.

Claims 7 and 13

Claims 7 and 13 have been amended to respectively include the limitations previously presented in claims 8 and 14, which were directed to the concept of combining individual MSWP profiles for each of the MSWPs into a composite profile. As already noted within regard to claim 1, these limitations are not identically disclosed by Suzuki. Thus, the Examiner has failed to establish that Suzuki identically discloses the claimed invention, as recited in claims 7 and 13, within the meaning of 35 U.S.C. § 102.

For above-described reasons, the Examiner has failed to establish that Shepard identically discloses the claimed invention, as recited in claim 1-7, 9-13, and 14-18, within the meaning of 35 U.S.C. § 102. Applicant, therefore, respectfully submits that the imposed rejection of claims 1-7, 9-13, and 14-18 under 35 U.S.C. § 102 for anticipation based upon Suzuki is not factually viable and, hence, solicits withdrawal thereof.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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